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EXAMINER

TOPPIN, CATHERINE J

ART UNIT

PAPER NUMBER

2612

DATE MAILED: 06/04/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/399,866

Applicant(s)

NEEDHAM, BRADFORD H. *MA*

Examiner

Catherine Toppin

Art Unit

2612

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 11-20 is/are allowed.
- 6) ☒ Claim(s) 1, 2, 7 and 8 is/are rejected.
- 7) ☒ Claim(s) 3-6, 9 and 10 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

Drawings

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference sign(s) not mentioned in the description: Elements 32 and 37 of figure 4 are not described. A proposed drawing correction, corrected drawings, or amendment to the specification to add the reference sign(s) in the description, are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claim 1, 2, 7 and 8 are rejected under 35 U.S.C. 102(e) as being unpatentable over Kim (US 6480225.) As for **claim 1**, Kim discloses a video camera (camera unit 200) with a processor that periodically uploads images captured by the video in accordance with a first motion detection algorithm (See column 2, lines 41-58.) Said first motion detection algorithm, as is well known in the art, consists of uploading (storing) a current image frame when a pixel comparison between two successive image frames exceeds a predetermined threshold. (See figure 3.) As for **claim 2**, the processor uploads the current image frame at programmed intervals (see column 2, lines 65-67.)

Art Unit: 2612

4. As for **claim 7**, Kim teaches a video camera comprising a current frame buffer (214), a previous frame buffer (214), and a candidate buffer (218.) The temporary memory (214) is interpreted as holding both a current and a previous frame. (See column 2, lines 48-51.) The logic circuitry to perform pixel comparison and asserting a motion signal when the pixel comparison exceeds a predetermined threshold is interpreted as located within the control unit (216.) (See column 3, lines 3-22.) Kim furthermore teaches a camera that operates according to a first mode in which the current image is loaded into the candidate buffer (permanent memory) in response to a motion signal. (See column 3, lines 27-33.)

5. As for **claim 8**, the examiner interprets the claimed second mode of loading a current image after a certain duration has elapsed following assertion of the motion signal as inherent within the first mode of claim 7, as the current image is loaded some time after pixel comparison between the current and previous frame has taken place.

Allowable Subject Matter

6. Claims 11-20 are allowed. Prior art teaches capturing an image frame from a video camera, determining a motion using a pixel comparison algorithm between successive frames, and storing an image based on its whether a predetermined threshold has been exceeded. However, prior art does not teach or fairly suggest selecting from a buffer one of the successive image frames as a candidate picture once the motion detection signal has been de-asserted for a certain duration and uploading the candidate picture to a web site as in independent claims 11, 15 and 19.

7. Claims 3-6, 9 and 10 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base

Art Unit: 2612

claim and any intervening claims. The following is a statement of reasons for the indication of allowable subject matter: As for claims 3-6, prior art teaches a video camera with the motion detection algorithm of claims 1-3, but does not teach or fairly suggest capturing a stable frame as described on page 9 of the specification after a certain duration has elapsed since the predetermined threshold has been exceeded. As for claims 9 and 10, prior art teaches the use of a circular buffer for storing image frames, but does not teach or fairly suggest a processor configured to select one of the current images stored in the circular buffer for loading into the candidate buffer once a motion signal has been de-asserted for a predetermined time.

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Johnson (US 6136338) teaches an apparatus whose storage of images in a circular buffer is based on the occurrence of a triggering event. Johnson also discloses a means for downloading the stored data to a personal computer. Palm (US 5034811) teaches storage of image frames and calculation of a difference in the luminance between successive frames as means for motion detection or change. Swanson (US 5689442) discloses an event surveillance system with a mode control function that identifies an event as being "of interest." Dickinson (US 5602585) discloses a motion detection camera that operates in a differential and alternatively a video mode.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Catherine Toppin whose telephone number is (703) 305-8144. The examiner can normally be reached on Monday-Friday 8:00 a.m. - 5:30 p.m..

Application/Control Number: 09/399,866


Page 5

Art Unit: 2612

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wendy Garber can be reached on (703) 305-4929. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9314 for regular and After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 306-0377.

CJT
May 28, 2003


WENDY R. GARBER
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600

Attachment for PTO-948 (Rev. 03/01, or earlier)
6/18/01

The below text replaces the pre-printed text under the heading, "Information on How to Effect Drawing Changes," on the back of the PTO-948 (Rev. 03/01, or earlier) form.

INFORMATION ON HOW TO EFFECT DRAWING CHANGES

1. Correction of Informalities -- 37 CFR 1.85

New corrected drawings must be filed with the changes incorporated therein. Identifying indicia, if provided, should include the title of the invention, inventor's name, and application number, or docket number (if any) if an application number has not been assigned to the application. If this information is provided, it must be placed on the front of each sheet and centered within the top margin. If corrected drawings are required in a Notice of Allowability (PTOL-37), the new drawings **MUST** be filed within the **THREE MONTH** shortened statutory period set for reply in the Notice of Allowability. Extensions of time may **NOT** be obtained under the provisions of 37 CFR 1.136(a) or (b) for filing the corrected drawings after the mailing of a Notice of Allowability. The drawings should be filed as a separate paper with a transmittal letter addressed to the Official Draftsperson.

2. Corrections other than Informalities Noted by Draftsperson on form PTO-948.

All changes to the drawings, other than informalities noted by the Draftsperson, **MUST** be made in the same manner as above except that, normally, a highlighted (preferably red ink) sketch of the changes to be incorporated into the new drawings **MUST** be approved by the examiner before the application will be allowed. No changes will be permitted to be made, other than correction of informalities, unless the examiner has approved the proposed changes.

Timing of Corrections

Applicant is required to submit the drawing corrections within the time period set in the attached Office communication. See 37 CFR 1.85(a).

Failure to take corrective action within the set period will result in **ABANDONMENT** of the application.